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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

IN RE: TFT-LCD (FLAT PANEL)
ANTITRUST LITIGATION

Master File No. 3:07-md-01827 SI
MDL No. 1827

This Document Relates to:

Best Buy Co., Inc. v. AU Optronics Corp., et al.,
Case No. 10-CV-4572

Best Buy Co., Inc. v. Toshiba Corp. et al.,
Case No. 12-CV-4114

Individual Cases:
Case No. 10-CV-4572
Case No. 12-CV-4114

**STIPULATION AND ~~PROPOSED~~ ORDER
RE BEST BUY'S CLAIMS BASED ON
PURCHASES FROM NEC**

The Honorable Susan Illston

1 WHEREAS, Best Buy Co., Inc., Best Buy Purchasing LLC, Best Buy Enterprise Services,
2 Inc., Best Buy Stores, L.P., BestBuy.com, L.L.C., and Magnolia Hi-Fi, Inc. (collectively, “Best
3 Buy”) filed a complaint in this action against Toshiba Corporation, Toshiba Mobile Display Co.,
4 Ltd., Toshiba America Electronic Components, Inc., and Toshiba America Information Systems, Inc.
5 (“Toshiba”), on August 3, 2012;

6 WHEREAS, Toshiba joined in Defendants’ motion for summary judgment as to damages
7 based on purchases from conspirators not alleged in the complaints of certain Track 1 plaintiffs,
8 including Best Buy, on August 2, 2012;

9 WHEREAS, Best Buy filed a motion to consolidate its action against Toshiba with other
10 Track 1 cases on November 16, 2012;

11 WHEREAS, in its reply regarding the motion to consolidate, Best Buy agreed to submit to
12 the Court’s rulings on certain summary judgment motions, including Defendants’ motion filed on
13 August 2, 2012;

14 WHEREAS, the Court granted Best Buy’s motion to consolidate its action against Toshiba
15 with other Track 1 cases on December 13, 2012;

16 WHEREAS, in granting the motion to consolidate, the Court specifically referenced Best
17 Buy’s acceptance of the Court’s pending rulings on certain summary judgment motions, including
18 Defendants’ motion filed on August 2, 2012;

19 WHEREAS, the Court granted in part Defendants’ motion for summary judgment as to
20 damages based on purchases from conspirators not alleged in the complaints of certain Track 1
21 plaintiffs, including Best Buy, on December 26, 2012, Dkt. No. 7419 (the “Order”);

22 WHEREAS, in the Order, the Court granted Defendants’ motion “as to plaintiffs’ claims for
23 damages based on purchases from the following entities that the Court finds were not disclosed to
24 defendants prior to the discovery cut-off (or otherwise the subject of discovery prior to the cut-off): .
25 . . [Best Buy]: Advanced Displays, Inc., Alps Electric Co., Ltd., NEC Corp., NEC Corp. of America,
26 NEC Display Solutions of America, Nikon, Philips Kobe, and Samsung Mobile Display”;

1 WHEREAS, the Court's Order did not exclude NEC LCD Technologies, Ltd., which Best
2 Buy identified in its Complaint in that action. *See* Dkt. No. 2878 (Best Buy's First Amended
3 Complaint ¶¶ 58-59);

4 WHEREAS, consistent with the Order, Best Buy and Toshiba hereby stipulate, subject to
5 approval by the Court, as follows:

- 6 1. Best Buy's claims against Toshiba are subject to the Court's Order granting in part
7 Defendants' motion for summary judgment, Dkt. No. 7419;
 - 8 2. Best Buy shall not assert claims for damages based on purchases from the following
9 entities: Advanced Displays, Inc., Alps Electric Co., Ltd., NEC Corporation, NEC
10 Corporation of America, NEC Display Solutions of America; Nikon; Philips Kobe;
11 and Samsung Mobile Display;
 - 12 3. Best Buy does not waive the right to contend that Best Buy's purchases from these
13 entities are independently actionable under *Illinois Brick* and *Royal Printing* as set
14 forth by Best Buy in its Reply to HannStar's Second Opposition to Best Buy's Trial
15 Brief re FRCP 1006 Summary Witness filed on August 7, 2013 and pending before
16 the Court (Dkt. No. 8423 at 2:9-27), to the extent this argument has not been resolved
17 by the Court's Order on summary judgment, Dkt. No. 7419;
 - 18 4. NEC LCD Technologies, Ltd. remains as an alleged co-conspirator in Best Buy's
19 complaint (just as it was in Best Buy's complaint in *Best Buy Co., Inc. v. AU*
20 *Optronics Corp., et al.*).
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1 **IT IS SO STIPULATED.**

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3 Dated: August 8, 2013

/s/ Christopher M. Curran

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20 *and Toshiba America Information Systems, Inc.*

21 /s/ David Martinez

22
23 Dated: August 8, 2013

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29 **ORDER**

30 IT IS SO ORDERED.

31 Dated: Aug. 8, 2013

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33 The Honorable Susan Illston
34 UNITED STATES DISTRICT COURT JUDGE